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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,933	10/31/2005	Michael Barry Sawdy	1111-28	8100
24106 7590 09/29/2008 EGBERT LAW OFFICES 412 MAIN STREET, 7TH FLOOR HOUSTON, TX 77002				
EXAMINER NELSON JR, MILTON				
ART UNIT 3636		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,933

Applicant(s)

SAWDY, MICHAEL BARRY

Examiner

Milton Nelson, Jr.

Art Unit

3636

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-37, 39 and 41-48 is/are rejected.
- 7) ☒ Claim(s) 38 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/9/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The objection to the drawings has been withdrawn in view of Applicant's replacement drawing sheet.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-34 and 42-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 7 of claim 25 is grammatically incorrect. Note the recitation "in which seat squab does not obstruct". Line 3 of claim 26 is grammatically vague. Note the recitation "a pair of hooks to respectively engaging said pair of mounting lugs". Inconsistent terminology has been used in at least claims 27, 28 and 29. Note "plurality of pivot links" and "plurality of pivotal links". Line 3 of claim 28 is grammatically incorrect. Note the recitation "said one side of adjacent seat back mounting". In line 3 of claim 28, "said one side of adjacent seat back mounting" lacks proper antecedent basis. In line 4 of claim 42, "said backrest" lacks proper antecedent basis. Lines 7 to 8 of claim 42 are grammatically vague. Note the recitation "said seat belt passing hereto said guide". In line 1 of claim 46, it is unclear if "a seat back mounting" is the same as

"a seat back mounting" of claim 42. All remaining claims are indefinite at least since each depends from an indefinite claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK (2197628) in view of Mach (2753947). The primary reference shows all claimed features of the instant invention with the exception the support frame being mounted on rollers for lateral movement (claim 35), the support frame having a base plate, and a platform mounted to the base plate (claim 36), wherein the base plate has at least one projection extending downwardly therefrom to engage with at least one channel formed in the platform (claim 37), and a clamp affixed to the base plate so as to hold the base plate in position (claim 39). In the primary reference, note the support frame (2, 3), seat squab (6, 7), seat back mounting (unlabeled bracket adjacent to member 13, as shown in Figure 1), and backrest (5).

The secondary reference conventionally teaches providing a seat support as mounted on rollers (44 and/or 43) for lateral movement, the support incorporating a base plate (41), the base plate being mounted on a platform (36) for lateral movement,

wherein the base plate is provided with at least one projection (43) extending downwardly to engage with at least one channel formed in the platform, and a clamp (52, 53, 54) provided to clamp the base plate in position.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding substituting for the rail system (1) a system with rollers for lateral movement (claim 35), wherein the support frame incorporates a base plate, the base plate being mounted on a platform (claim 36), wherein the base plate is provided with at least one projection extending downwardly to engage with at least one channel formed in the platform (claim 37), and further including a clamp provided to clamp the base plate in position (claim 39). Such provides easier selective movement and securement of the seating assembly.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK (2197628) in view of Mach (2753947), as applied to claim 35, and further in view of Marinelli (6533341). The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the backrest having a wide upper portion and a narrow lower portion. Mach conventionally teaches providing a seat support as having a wide upper portion and a narrow lower portion (see Figure 1).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Mach by configuring the backrest as having a wide upper portion and a

narrow lower portion. Such reduces the space used by the backrest while maintaining user support and comfort.

Claims 42-45, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over UK (2197628) in view of Kave (5120103) and Silbert (1210223).

The primary reference shows all claimed features of the instant invention with the exception the backrest being broad at the top and being narrow at the bottom, having a guide at the top, and having at least one seat belt connected to the support frame with the seat belt passing through the guide (claim 42); wherein the seat belt comprises at least two seat belts mounted to the support frame, the guide comprising at least two guides at the top of the backrest, the seat belts respectively passing through the guides (claim 45). In the primary reference, note the support frame (2, 3), seat squab (6, 7), seat back mounting (unlabeled bracket adjacent to member 13, as shown in Figure 1), and backrest (5).

Kave conventionally teaches providing a backrest (14), with seat belts (21, 21), guides (see Figure 1) at the top of the backrest, wherein the seat belts respectively pass through the guides.

Silbert conventionally teaches providing a seat with a backrest that is relatively broad at the top and relatively narrow at a lower position (see Figure 1).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teaching of

Kave by adding seat belts and corresponding guides at the top of the backrest, wherein the seat belts respectively pass through the guides. Such conventionally enhances user support and safety.

It would have further been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of Silbert by configuring the backrest as relatively broad at the top and relatively narrow at a lower position. Such reduces the amount of space used by the backrest while maintaining user stability, support and comfort.

Allowable Subject Matter

Claims 38 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-34, and 46-48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Amendment/Arguments

Applicant's response has been fully considered. Remaining issues are described in the above sections. Regarding claim 35, Applicant argues that UK (2197628) fails to

meet the limitation of the squab being movable to a position in which it "does not obstruct the space in front of the backrest". The actual claim limitation is that the "seat squab does not obstruct a space in front of said backrest" (see line 7 of claim 35). Figure 1 shows at least two positions where the "seat squab does not obstruct a space in front of said backrest". Applicant further argues that it is not possible to access the backrest from the front of the seat once the squab has been moved into the "stowed position". This argument is significantly more limiting than the actual claim language, which fails to require a "stowed position". Applicant also argues that rollers are not used to support sliding of the UK patent. Mach provides this conventional teaching, as described in the rejection above. Regarding Mach, Applicant argues that it is not combinable with the UK patent since the UK patent is moved a small distance and Mach is moved a large distance. The distances moved are irrelevant to the substitution of Mach's conventional teaching for the teaching of the UK patent. Use of rollers in vehicle seats to enhance movement is conventional, and has been taught for decades. It is clear that no vehicle seat is going to be moved relative to the vehicle any large distance. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements

yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Regarding claim 42, Applicant's amendment has necessitated new grounds of rejection combining the previously applied rejections to Kave and Silbert as secondary references for the primary reference to UK (2197628). Applicant argues against using Silbert to provide the widened top portion of the seat back and the narrowed lower portion of the seat back. This is a conventional teaching that is old and well known in the pertinent art. Applying this teaching to the cited primary reference provides obvious improvement as described above.

All remaining rejections are proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton Nelson, Jr./
Primary Examiner, Art Unit 3636

mn
September 25, 2008